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Oral Deposition - Douglas Kaye September 21, 2006

Page 1

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

DOUGLAS KAYE
)
vs.
) Civil Action 4:05-CV-02809
)
SYNTHES (U.S.A.)

ORAL DEPOSITION

DOUGLAS KAYE

September 21, 2006

ORAL DEPOSITION OF DOUGLAS KAYE, produced as a witness at the instance of the Defendant and duly sworn, was taken in the above-styled and numbered cause on the 21st day of September, 2006, from 1:17 p..m. to 4:02 p.m., before Karen K. Harris, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at The Mallia Law Firm, One Riverway, Suite 610, Houston, Texas 77056, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

NMA Compressed Transcript

Karen K. Harris, CSR, RPR, B.A., M.A.

Nell McCallum & Assoc. (713) 861-0203

EXHIBIT

Case 4:05-cv-02809 Document 32-14 Filed in TXSD on 10/30/06 Page 2 of 12

Oral Deposition - Douglas Kaye September 21, 2006

		Page 2		Page 4
1	APPEARANCES		1	THE COURT REPORTER: Please put your
2	PAD IN A NITTEE		2	stipulations on the record.
3	FOR PLAINTIFF:		3	MS. LIVINGSTON: According to the
	Mr. Andrew Rubenstein		4	Rules.
4	The Mallia Law Firm		5	MR. RUBENSTEIN: Whatever those might
5	One Riverway, Suite 610 Houston, Texas 77056		6	be in Federal Court. Can we agree to do it, just
6	Houston, Texas 77050		7	what the state rules are for depos?
ļ	FOR DEFENDANT:		8	MS. LIVINGSTON: I'll agree to that.
7	Ma Danna II Liningston		9	My concern is that, given the court we're in
8	Ms. Deanna H. Livingston Livingston & Livingston, L.L.C.		10	MR. RUBENSTEIN: A judge will follow
	1770 St. James Place, Suite 100		11	the rules, and will require us to follow them. I
9	Houston, Texas 77056		12	want to make sure that what we do is not try to go
10			13	around the Judge's orders.
12			14	MS. LIVINGSTON: Very well said.
1.3			15	Right. I agree wholeheartedly.
14			16 17	THE COURT REPORTER: What about
16			18	signature, please?
17			19	MR. RUBENSTEIN: We'll read and sign. DOUGLAS KAYE,
18 19			20	having been first duly sworn, testified as follows:
20			21	EXAMINATION
21			22	Q. (BY MS. LIVINGSTON) Tell us your full
22			23	name, please.
23			24	A. Douglas Alan Kaye.
25			25	Q. Have you ever gone by any other names?
		Page 3		Page 5
1			1	A. Actually, yes.
2	INDEX		2	Q. What are those, please?
3	PAGE		3	A. Alan.
4	Examination by Ms. Livingston		4	THE COURT REPORTER: Excuse me.
5	Court Reporter's Certificate		5	Please spell Alan.
6	100		6	THE WITNESS: A-L-A-N.
7	EXHIBITS		7	Q. (BY MS. LIVINGSTON): When was the last
8	EVIUDIT NEGODYPETO		8	time you went by Alan?
9 10	EXHIBIT DESCRIPTION PAGE 1 Deposition Notice for Douglas 94		9	A. When I was in school, taking French. They
1	Deposition Notice for Douglas 94 Kaye		10	did not have "Douglas" in French, so I was Alain.
11	٠		11	Q. So, would it be fair for me to conclude
	2 Douglas Kaye Sugar Land 94		12 13	that all of the records pertinent to your health care
12	Hospital Consent Forms		14	for the past five or ten years would be under the name of Douglas Kaye?
13			15	A. Yes.
15			16	Q. Do you have any licensures or
16			17	certifications?
17			18	A. I have my pilot's license.
18			19	Q. That's a private pilot?
19			20	A. Private.
21			21	Q. Are you instrument rated?
22			22	A. No.
23			23	Q. Just VFR?
24 25			24	A. Uh-huh.
			25	Q. Where do you fly out of?

2 (Pages 2 to 5)

Karen K. Harris, CSR, RPR, B.A., M.A.
Nell McCallum & Assoc. (713) 861-0203

	Page 6		Page 8
1	A. Houston Southwest.	1	Q. When was the first time that you saw
2	Q. Do you own your own plane?	2	Dr. Butler for your flight physicals?
3	A. No.	3	A. 2003.
4	Q. Partial ownership?	4	Q. Do you recall anything about the clinic
5	A. No.	5	that you went to, or where it was located for your
6	Q. What kind of plane do you enjoy flying?	6	'97, '99 and 2001 physicals?
7	A. Piper.	7	A. It was in Houston. I just don't remember.
8	Q. A cub?	8	Q. Do you believe they were at the same place?
9	A. No. Aero.	9	A. No.
10	Q. A long time ago, in another lifetime, I	10	Q. Do you believe they were three different
11	used to fly Beech Musketeers.	11	places?
12	A. I have been in one.	12	A. I just don't remember.
13	Q. Is the Aero a 6-seater plane?	13	Q. Do you keep any diaries or other kind of
L 4	A. Four.	14	calendars generally?
15	Q. Four. Single prop?	15	A. Not really.
l 6	A. Single.	16	Q. Is there something that you keep, that
7	Q. When did you first get your pilot's	17	would jog your memory on those kinds of things, such
8	license?	18	as dates?
9	A. Lessons in '97. License in '97.	19	A. Not really. My logbook is the only thing I
20	Q. And do you in connection with initially	20	usually keep. And that doesn't have any of the
21	getting your pilot's license and subsequent renewals	21	information you're looking for.
22	of that, do you take your flight physical?	22	Q. Do you have any family in Vermont?
23	A. Yes.	23	A. No.
24	Q. And who is the physician that has	24	Q. Was when was the first time that you
25	performed or which physician performed the initial	25	went to Vermont?
	Page 7		Page 9
1	flight physical?	1	A. In my life?
2	A. That I don't remember. Oh I don't	2	Q. Yes.
3	remember.	3	A. I'm going to say 1966 or '65. Something
4	Q. Would that physical have been in 1997?	4	like that.
5	A. I believe so.	5	Q. Since then, approximately how many times
6	Q. When was the last time that you went	6	have you gone up there?
7	through a physical for renewal of your pilot's	7	A. 200.
8	license?	8	Q. What, generally, takes you up there?
9	A. I'll tell you in a second. September 27th,	9	A. Used to be skiing.
0	2005.	10	Q. Would you describe yourself as an avid
1	Q. Which doctor performed that physical?	11	skier when you were skiing?
.2	A. Max C. Butler.	12	A. Yes.
3	Q. To the best of your knowledge, how many	13	Q. What other avocations do you have, besides
4	times in the period between 1997, when you were first	14	flying and skiing?
5	certified as physically fit for flying, and September	15	A. Just work.
6	27th, 2005, when you had your last, or most recent	16	Q. Tell me about your work.
	physical, did you have physicals? So, in other	17	A. I'm a mobile businessman. I go to my
1	words, I'm trying to figure out how many times in	18	clients. So I'm on the road. And I actually service
		19	and sell Japanese hair cutting scissors.
. 8	that interim, between '97 and 2005.		Q. By "service," what does that entail? What
8	that interim, between '97 and 2005. A. '97. I had one. '99. I had one. 2001. I	20	
8 9 0	A. '97, I had one. '99, I had one. 2001, I	20 21	
.8 .9 .0	A. '97, I had one. '99, I had one. 2001, I had one. 2003, I had one. It's every two years.	21	do you mean by saying you service Japanese hair
.8 .9 .0 .1	A. '97, I had one. '99, I had one. 2001, I had one. 2003, I had one. It's every two years. You should remember that.	21 22	do you mean by saying you service Japanese hair cutting scissors?
7 .8 .9 .0 .1 .2 .3	A. '97, I had one. '99, I had one. 2001, I had one. 2003, I had one. It's every two years.	21	do you mean by saying you service Japanese hair

3 (Pages 6 to 9)

Oral Deposition - Douglas Kaye September 21, 2006

1 to give a full and complete answer before I ask my 2 owner of Rapid Edge Technologies? 3 A. Yeah. Uh-huh. 4 Q. Do you have any ownership interest in it? 5 A. No. 6 Q. Do you have an entity under which you 7 perform your work? 8 A. I don't understand. 9 Q. Have you incorporated? 10 A. Oh, yes, I'm incorporated. 11 Q. What's the name of your corporation? 12 A. Doug Kaye, Incorporated. 13 Q. Is that incorporated. 14 secretary of state of Texas? 15 A. Yes. 16 Q. Do you know the date of the incorporation? 17 A. I do not. I can get that for you if I have 18 to. 19 Q. Just give me an approximation now, if you 20 can. Year. 21 A. I'm going to say three years ago. 1 to give a full and complete answer before I ask my 2 next question. Fair enough? 3 A. Yeah. 4 Q. Did those sound like good ground rules to 5 go forward? 6 A. Yeah. 9 Q. Have you given a deposition before? 8 A. No. 9 Q. Have you been a party to any lawsuits 10 before this one? 11 A. No. 12 Q. Why did you decide to file this lawsuit? 13 A. Because I felt that I would be that I had risked my life by having to go through this surgery. 16 Q. Are you finished? 17 A. Yes. 18 Q. How many surgeries have you had on your clavicle? 20 A. That would be four. 21 A. I'm going to say three years ago.		Page 10		Page 12
2 A. Okay. 3 A. Uh-huh. 4 Q. And do you have equipment that allows you to do that, to sharpen the blades? 5 A. Yeah. 6 A. Yeah. 7 Q. Describe that for me, please. 8 A. It's a self-contained, water-cooled factory sharpening machine. 9 A. Who's the manufacture of it? 10 Q. Who's the manufacture of it? 11 A. My brother. 12 Q. Who is your brother? 13 A. Roger Kaye. 14 Q. Where does he live? 15 A. Glens Falls, New York. 16 Q. Is that G-L-E-N-S? 16 A. Juh-huh. 17 A. Uh-huh. 18 Q. Falls is a separate word? 19 A. Uh-huh. 20 Q. Has he made many of those self-contained, water-cooled sharpeners? 21 A. Yes. 22 A. Yes. 23 Q. Does he sell them under a particular brand name? 24 name? 25 A. Rapid Edge Technologies. 26 Q. Do you have an entity under which you perform your work? 27 A. Idon't understand. 28 A. Idon't understand. 29 Q. Has he made many of those self-contained, water-cooled sharpeners? 3 A. Yeah. Uh-huh. 4 Q. Do you have an entity under which you perform your work? 4 A. Idon't understand. 5 A. No. 6 Q. Do you have an entity under which you perform your work? 5 A. No. 6 Q. Do you have an entity under which you perform your work? 6 A. Yesh. 7 Q. Have you incorporated? 8 A. It's have it said: Give me an approximation, but yet you want to answer: In the form of an approximation, but yet you want to answer in the form of an approximation, but yet you want to answer in the form of an approximation, but yet you want to answer in the form of an approximation, but yet you want to answer: I humb. 16 (Q. That will assist both of us in having a clear record of what the questions and the answers are. 16 (Q. That will assist both of us in having a clear record of what the questions and the answers are. 17 (a. Id-huh. 18 (b. Though the said of your to decide to fit me know that when you provide your answer. 19 (a. A. Okay. 20 (b. That will assist both of us in having a clear record of what the questions and the answers are. 21 (b. Though the said in the question and the answers are and amonition In have, as I to the provide your	1	A. Yeah.	1	that as well
3 A. Uh-huh. 4 Q. And id oy ou have equipment that allows you 5 to do that, to sharpen the blades? 6 A. Yeah. 7 Q. Describe that for me, please. 8 A. It's a self-contained, water-cooled factory sharpening machine. 9 (a. Who's the manufacture of it? 11 A. My brother. 12 Q. Who's your brother? 13 A. Roger Kaye. 14 Q. Who is your brother? 15 A. Glens Falls, New York. 16 Q. Is that G1-E-N-8? 17 A. Uh-huh. 18 Q. Palls is a separate word? 19 A. Uh-huh. 19 Q. Where does he live? 10 Q. Uh-huh. 11 Q. When a separate word? 12 Q. When a separate word? 13 Q. Uh-huh. 14 Q. Does he sell them under a particular brand aname? 15 A. Rapid Edge Technologies. 16 Q. Do you have an entity under which you perform your work? 17 A. I don't understand. 18 Q. Do you have an entity under which you perform your work? 19 A. No. 20 Q. Have you incorporated. 21 Q. What's the name of your corporation? 22 A. Yes. 3 A. Yesh. Uh-huh. 3 A. Yesh. Uh-huh. 4 Q. Do you have an entity under which you perform your work? 4 A. Idon't understand. 5 A. No. 6 Q. Do you have an entity under which you perform your work? 7 A. Idon't understand. 9 Q. Have you incorporated. 10 Q. Have you incorporated. 11 Q. What's the name of your corporation? 12 A. Yes. 13 Q. Have you incorporated. 14 Q. What's the name of your corporation? 15 A. Yes. 16 Q. Do you know the date of the incorporation? 17 A. I do not. I can get that for you if have so on. Year. 18 to. 19 Q. Just give me an approximation now, if you can't provide a water from an approximation, but yet tell me. 16 M. Uh-huh. 16 Q. And if you can't provide a more specific — 17 Have vou don't anderstaid. 10 Q. That will assist both of us in having a clear record of what the questions and the answers of an approximation, but yet you want to answer in the form of an approximation, but yet answer. 16 Q. That will assist both of us in having a clear record of what the questions and the answers of war understand of hear any of my questions. 16 Those are an admonition I have, as I to do to you may know exactly where I'm goi	1		1	
4 tell me. 5 to do that, to sharpen the blades? 6 A. Yeah. 7 Q. Describe that for me, please. 8 A. If a self-contained, water-cooled factory sharpening machine. 10 Q. Who's the manufacture of it? 11 A. My brother. 12 Q. Who is your brother? 13 A. Roger Kaye. 14 Q. Where does he live? 15 A. Clens Falls, New York. 16 Q. Is that G-I-E-N-S? 17 A. Uh-huh. 18 Q. Falls is a separate word? 19 A. Uh-huh. 20 Q. Has he made many of those self-contained, water-cooled sharpeners? 21 A. Yes. 22 A. Yes. 3 Q. Does he sell them under a particular brand name? 25 A. Rapid Edge Technologies. Page 11 Q. To the best of your knowledge, is he the owner of Rapid Edge Technologies? A. Yesh. Uh-huh. Q. Do you have any ownership interest in it? A. A. No. Q. Do you have an entity under which you perform your work? A. A. Hon't muderstand. Q. Do you have an entity under which you perform your work? A. A. Hon't muderstand. Q. What's the name of your corporation? A. Yesh. Q. Do you have an of recorporated. Q. Have you incorporated. Q. Have you incorporated. Q. Do you have an entity under which you perform your work? A. A. Yesh. Q. Do you have an entity under which you perform your work? A. Idon't understand. Q. What's the name of your corporation? A. Yesh. Q. Do you have an of recorporated. Q. Have you incorporated. Q. Why did you decide to file this lawsuit? A. No. Q. Have you incorporated. Q. Why did you decide to file this lawsuit? A. Yes. Q. Do you have an approximation, but yet if I have to in In having a pot water to an approximation, but yet will voul want to answer. In If have if it In A. Uh-huh. If the three it Is the know that when you provide your answer. In promise I'll do my destions and the answers before I get there. But we'll end to speak, perhaps, a little slowly, ha	3		1	
5	4	Q. And do you have equipment that allows you	1	tell me.
6 A. Yeah. 7 Q. Describe that for me, please. 8 A. It's a self-contained, water-cooled factory 9 sharpening machine. 10 Q. Who's the manufacture of it? 11 A. My brother. 12 Q. Who is your brother? 13 A. Roger Kaye. 14 Q. Where does he live? 15 A. Glens Falls, New York. 16 Q. Is that G-I-E-N-S? 17 A. Uh-huh. 18 Q. Falls is a separate word? 18 A. Yes. 20 Q. Does he sell them under a particular brand name? 21 A. Yes. 22 A. Yes. 23 Q. Does he sell them under a particular brand name? 25 A. Rapid Edge Technologies. 26 Q. Do you have an entity under which you perform your work? 3 A. Yesh. Uh-huh. 4 Q. Do you have an entity under which you perform your works. 4 Q. Do you have an entity under which you perform your works? 4 A. I don't understand. 5 A. No. 6 Q. Do you have an entity under which you perform your works. 6 Q. Do you have an entity under which you perform your works? 8 A. I don't understand. 9 (I that you incorporated. 10 Q. What's the name of your corporation? 11 Q. What's the name of your corporation? 12 A. Doug Kaye, incorporated. 13 Q. Is that incorporation filed through the secretary of state of fexas? 14 A. Yes. 15 Q. Do you know the date of the incorporation? 16 Q. Just give me an approximation now, if you can let me know that when you provide your answer. 11 A. Okay. 12 Q. That will assist both of us in having a clear record of what the questions and the answers are. 13 clear record of what the questions and the answers are. 14 A. Okay. 2 Q. That will assist both of us in having a clear record of what the questions and the answers are. 15 tend to speak, perhaps, a little slowly, having been been an approximation, but yet you can let me know that when you provide your answer. 16 (if J A. Uh-huh. 17 A. Uh-huh. 18 been are an admonition I have, as I tend to speak, perhaps, a little slowly, having been are an admonition I have, as I tend to speak perhaps, a little slowly, having been are an admonition I have, as I tend to speak perhaps, a little slowly, having been are an admonition I have, as I tend to	5		5	
7 Q. Describe that for me, please. 8 A. It's a self-contained, water-cooled factory 9 sharpening machine. 10 Q. Who's the manufacture of it? 11 A. My brother. 12 Q. Who is your brother? 13 A. Roger Kaye. 14 Q. Where does he live? 15 A. Glens Falls, New York. 16 Q. Is that G-I-E-N-S? 17 A. Uh-huh. 18 Q. Falls is a separate word? 19 A. Uh-huh. 20 Q. Has he made many of those self-contained, 21 water-cooled sharpeners? 22 A. Yes. 23 Q. Does he sell them under a particular brand name? 24 name? 25 A. Rapid Edge Technologies. Page 11 Q. To the best of your knowledge, is he the owner of Rapid Edge Technologies? A. Yes. Q. Do you have an entity under which you perform your work? A. No. Q. Have you incorporated. Q. Is that incorporated? A. Opu you know the date of the incorporation? A. Oh, yes, I'm incorporated. Q. Is that incorporated. Q. Do you know the date of the incorporation? A. Op. Yes. Q. Do you know the date of the incorporation? A. No. Q. Just give me an approximation, but yet you wan to answer in the form of an approximation, but yet a you wan let me know that when you provide your answer. 11 A. Okay. 12 Q. That will assist both of us in having a clear record of what the questions and the answers are record of what the questions and the answers are record of what the questions and the answers are record of what the questions and the answers are record of what the questions and the answers are. A Death at Gens Falls, New York. 19 A. Ola-Lam defined the naw of the area and admonition I have, as I tend to speak, perhaps, a little slowly, having been an admonition I have, as I tend to speak, perhaps, a little slowly, having been an admonition I have, as I tend to speak, perhaps, a little slowly, having been are and admonition I have, as I tend to speak, perhaps, a little slowly, having been and provide your answer. 10 Does he sell them under a particular brand animal provide your answer. 11 to give a full and complete answer before I ask my next question. Fair enough? 12 Q. Have you incorporated. 23 Q. Do	6		6	Q. And if you can't provide a more specific
8 A. It's a self-contained, water-cooled factory 9 sharpening machine. 10 Q. Who's the manufacture of it? 11 A. My brother. 12 Q. Who is your brother? 13 A. Roger Kaye. 15 A. Glens Falls, New York. 16 Q. Is that G-L-E-N-S? 16 Q. Is that G-L-E-N-S? 17 A. Uh-huh. 18 Q. Falls is a separate word? 19 brown and raised in Texas. 20 Q. Has he made many of those self-contained, 21 water-cooled sharpeners? 22 A. Yes. 23 Q. Does he sell them under a particular brand 24 name? 25 A. Rapid Edge Technologies. Page 11 1 Q. To the best of your knowledge, is he the 2 owner of Rapid Edge Technologies? 3 A. Yeah. Uh-huh. 4 Q. Do you have an entity under which you 7 perform your work? 4 A. No, 9 Q. Have you incorporated. 9 Q. Have you incorporated? 10 Q. Have you incorporated. 11 Lon't understand. 12 Q. That will assist both of us in having a care. 13 clear record of what the questions and the answers are. 14 are. 15 A. Okay. 16 if you don't understand or hear any of my questions. 16 if you don't understand or hear any of my questions. 16 if you don't understand or hear any of my questions. 17 Those are an andernion in have, as I tend to speak, perhaps, a little slowly, having been bern and raised in Texas. 20 So, you may know exactly where I'm 21 going a long time before I get there. But we'll end up with a clearer record anake Ms. Harris a fair bit happier if you'd let me finish the question before you provide your answer. 21 to give a full and complete answer before I ask my next question. Fair enough? 22 A. Yeah. 3 A. Yeah. 4 Q. Did those sound like good ground rules to go forward? 23 A. Yeah. 4 Oh, yes, I'm incorporated. 4 Oh, yes, I'm incorporated. 5 Q. Have you given a deposition before? 6 A. No. 9 Q. Have you incorporated. 10 Q. What's the name of your corporation? 11 A. No. 12 Q. Is that incorporation filed through the secretary of state of Texas? 13 A. Yes. 14 A. Yes. 15 A. Pea. 16 G. Q. Are you finished? 17 A. Pes. 18 G. Q. How wany befirst one, approximately? 19 Can. Year. 10 Q. Is the manufacture of it? 11 A. No. 12 Q	7	Q. Describe that for me, please.	7	if I haven't said: Give me an approximation, but yet
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10 New State manufacture of it? 10 answer. 11 A. My brother. 12 Q. Who is your brother? 13 A. Roger Kaye. 13 clear record of what the questions and the answers 14 are. 15 A. Glens Falls, New York. 15 A. Glens Falls, New York. 15 A. Glens Falls, New York. 16 Q. Is that G-L-E-N-S? 16 If you don't understand or hear any of my questions. 17 Those are an admonition I have, as I 18 tent to speak, perhaps, a little slowly, having been 18 tent to speak, perhaps, a little slowly, having to my deverted 18 tent to speak 19 tent to speak, perha		sharpening machine.	9	
12 Q. Who is your brother? 13 A. Roger Kaye. 14 Q. Where does he live? 15 A. Glens Falls, New York. 16 Q. Is that G-L-E-N-S? 17 A. Uh-huh. 18 Q. Falls is a separate word? 19 A. Uh-huh. 20 Q. Has he made many of those self-contained, 21 water-cooled sharpeners? 22 A. Yes. 23 Q. Does he sell them under a particular brand 24 name? 25 A. Rapid Edge Technologies. Page 11 Q. To the best of your knowledge, is he the 2 owner of Rapid Edge Technologies? 3 A. Yeah. Uh-huh. 4 Q. Do you have an entity under which you 2 perform your work? 4 A. I don't understand. 5 Q. Have you incorporated. 6 Q. Do you know the date of the incorporation? 7 A. Doug Kaye, Incorporated. 8 Q. Do you know the date of the incorporation? 7 A. Do you know the date of the incorporation on, if you 2 can. Year. 2 Q. Just give me an approximation now, if you 2 can. Year. 3 A. Ping going to say three years ago. 12 Q. Where does he live? 14 dear record of what the questions and the answers 15 dear record of what the questions and the answers 16 dear record of what the questions and the answers 16 dear record of what the questions and the answers 16 di you don't understand or hear any of my questions. 16 if you don't understand or hear any of my questions. 17 A. Lib-huh. 18 C. Falls is a separate word? 18 tend to speak, perhaps, a little slowly, having been 19 born and raised in Texas. 20 So, you may know exactly where I'm 21 guip with a clearer record and make Ms. Harris a fair 22 bit happier if you'd let me finish the question 22 up with a clearer record and make Ms. Harris a fair 23 bit happier if you'd let me finish the question 24 before you provide your answer. 25 I promise I'll do my best to allow you 26 not an extraction. Fair enough? 27 A. Yesh. 28 A. I don't understand. 29 Do you have an entity under which you 29 Do you have an entity under which you 29 Do you doe an entity to any lawsuits 29 before the minswer before I ask my 29 next question. Fair enough? 20 A. Yeah. 21 Q. Have you given a deposition before? 22 A. No. 23 Q. Hase you given a		Q. Who's the manufacture of it?	10	
13	1		11	A. Okay.
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71. The going to say I think it was in May of		of my questions you've been doing great so far		2003 It may have been April but I believe !!
of my questions you've been doing great so far 24 please let me know. If I'm looking for an 23 2003. It may have been April, but I believe it was 24 May.		please let me know. If I'm looking for an		May
25 approximation or an estimate, I will let you know 25 Q. When was the skiing accident?		approximation or an estimate, I will let you know		

4 (Pages 10 to 13)

		Page 14		Page 10
1	A.	March 9th, 2003. I saved my lift ticket.	1	in a very uncomfortable and awkward and painful
2		What mountain were you skiing?	2	condition. Ski patrol was on the scene within a
3		Mad River Glen.	3	minute, I think. It was very quick. They had
4		Had you skied that before?	4	they put oxygen on me because I couldn't breathe.
5		Yes.	5	Q. You did, in fact, puncture a lung?
6	Q.	What was the category of run that you were	6	A. I crushed a lung. I broke 15 bones.
7	on?		7	Q. I'm sorry. I didn't mean to interrupt you.
8	A.	It was a blue run, believe it or not.	8	You were telling me what happened. They put oxygen
9		Were conditions particularly icy?	9	on you
10		No.	10	A. They put oxygen on me, and they made me
11	Q.	What caused the accident?	11	stay right where I was. They couldn't move me.
12		Operator error.	12	Q. So, what happened?
13	Q.	Meaning?	13	A. They had to put a piece of plywood
14		I made a mistake.	14	underneath me. And then they had to undo all my
15	Q.	What kind of mistake did you make,	15	clothes. They sliced my clothes off me. And I was
16	Mr. Kay		16	scared. I was very scared. I had never been hurt
17		I wanted to go I wanted to go right, and	17	before, that I knew of.
18	I went le		18	Q. And never had any broken bones growing up?
19	Q.	Were you skiing in close proximity to a	19	A. Actually, no. My nose is crooked, but that
20	friend o	r someone else that was in your party?	20	was from getting hit with a baseball when I was a
21	Α.	Not close. He was behind me. But, yes, I	21	kid. But I don't think that's a bone anyway. That's
22	was wit	h a friend.	22	a piece of cartilage. But that was it. I never
23	Q. `	You wanted to go right, and you went left.	23	broke a bone before that in my entire life.
24	Am I ge	etting the directions right?	24	They put me on a piece of plywood.
25	Α	I had it in my hand to make that right hand	3 ^ F	
		I had it in my head to make that right-hand	25	And they undid my legs, which were just the
	11.	Page 15	25	And they unded my legs, which were just the Page 17
1		Page 15	25 1	Page 17
1	turn. A	Page 15 s I started to make the right-hand turn, my	1	Page 17 position I was in was excruciating, but they couldn't
	turn. A	Page 15 s I started to make the right-hand turn, my nt left. That was when I hit the tree. It		Page 17 position I was in was excruciating, but they couldn't move me because they thought that my spine might have
1 2	turn. A skis wer was just	Page 15 s I started to make the right-hand turn, my nt left. That was when I hit the tree. It t that easy.	1 2	position I was in was excruciating, but they couldn't move me because they thought that my spine might have been broken. And they had to stabilize me.
1 2 3	turn. A skis wer was just Q.	Page 15 s I started to make the right-hand turn, my nt left. That was when I hit the tree. It t that easy. How big was the tree?	1 2 3	position I was in was excruciating, but they couldn't move me because they thought that my spine might have been broken. And they had to stabilize me. They put me in a sled. So, I got my
1 2 3 4	turn. A skis wer was just Q. A.	Page 15 s I started to make the right-hand turn, my nt left. That was when I hit the tree. It t that easy. How big was the tree? (Gesturing.)	1 2 3 4	position I was in was excruciating, but they couldn't move me because they thought that my spine might have been broken. And they had to stabilize me. They put me in a sled. So, I got my sled ride down the mountain, which was I was very
1 2 3 4 5	turn. A skis wer was just Q. A. (Q. Q.	Page 15 s I started to make the right-hand turn, my nt left. That was when I hit the tree. It t that easy. How big was the tree?	1 2 3 4 5	position I was in was excruciating, but they couldn't move me because they thought that my spine might have been broken. And they had to stabilize me. They put me in a sled. So, I got my sled ride down the mountain, which was I was very close to the bottom. We were on our way to lunch.
1 2 3 4 5 6	turn. A skis wer was just Q. A. Q. that?	Page 15 s I started to make the right-hand turn, my nt left. That was when I hit the tree. It t that easy. How big was the tree? (Gesturing.) Can you give me a verbal description of	1 2 3 4 5	position I was in was excruciating, but they couldn't move me because they thought that my spine might have been broken. And they had to stabilize me. They put me in a sled. So, I got my sled ride down the mountain, which was I was very close to the bottom. We were on our way to lunch. And they brought me into the ski
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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	turn. A skis wer was just Q. 1 A. (Q. 1 that? A. 1 Q. 1 that? A. 1 Q. 1 that C. 1 that	Page 15 s I started to make the right-hand turn, my int left. That was when I hit the tree. It t that easy. How big was the tree? (Gesturing.) Can you give me a verbal description of I'm going to say 7 inches in diameter. Do you have a recall of that collision? No. What's the first thing following the skiing tree that you remember? I'm out of work. Help me out here. I'm thinking in terms I fell down after I hit the tree. I went and I lay there, and I said: I'm out of work. My wife I didn't mean to say it like that.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	position I was in was excruciating, but they couldn't move me because they thought that my spine might have been broken. And they had to stabilize me. They put me in a sled. So, I got my sled ride down the mountain, which was I was very close to the bottom. We were on our way to lunch. And they brought me into the ski patrol shed down there. This is a very rustic ski area. It's not like Aspen. This is as rural and rustic, and that's why I like it so much. It was like real skiing. And then they did the, you know, what's this? What's this? Do you feel this? Can you wiggle your toes? All that. They tried to call the Life Flight in. But they couldn't, because it was snowing too hard. They drove me by ambulance to Montpelier, to their
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5 (Pages 14 to 17)

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Page 18

give me any pain meds for the first several hours in Montpelier. They had put a chest tube in.

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Q. Did they explain why they were not able to give you pain meds?

A. I don't think so. I don't really remember that at that point. I was sort of -- my -- I left a message for my wife on the machine, saying that I'd been hurt. And my friend Bruce stayed with me.

Then he had to take the rental car from there to there. He followed the ambulance to 11 the trauma center.

And then, from then on, everything was 13 a blur. You know -- they dumped, you know, whatever narcotics. I mean, they couldn't level me out. Catheterized me. And then I was pretty good for that amount of time.

They put me in a hospital room. And 18 the rest of it, if you need it, I'll tell you. Do you want the rest of the story?

20 Q. When did you first learn -- let's back up. 21 You said you broke 15 bones.

A. I didn't know I had broken any bones, except that I was in excruciating pain. And on the ride to the hospital, I went over as many -- you don't know what a frost heath is, but it's a bump in

Page 20

1 Q. In hindsight, we can look at the medical records and know what all the diagnoses were, in terms of broken bones and collapsed lung, and crunched ribs, and so forth and so on.

5 What is your understanding of the bones that were broken, or the severity of the 6 7 injuries?

A. At what point?

Q. From your collision into a tree.

9 10 A. I just knew I couldn't move. All I knew is 11 there had to be something more seriously wrong than 12 had ever been wrong with me before.

13 MR. RUBENSTEIN: I think he's 14 misunderstanding --

THE WITNESS: Did I get it right?

16 Q. (BY MS. LIVINGSTON) You're doing fine. As you sit here today, what's your understanding of the 18 nature of your injuries from your ski accident? If 19 you have one.

A. Maybe you could be more clear on that.

21 Q. Sure. From March of 2003 to the present 22 time -- which I think is September 21st, 2006 -- some

time has passed, and you filed the lawsuit. 24 I'm trying to get your present day

25 understanding of the extent and the significance of

Page 19

the road. And there were probably 20 a mile. I was

2 on a board, smashing down on the bottom of the ambulance. I was holding onto the guy, the ambulance

guy's hand. And he made the driver slow down because 5 it wasn't going good for me.

6 Q. When do you remember being aware of -- when 7 do you remember being informed that you had broken 8 bones?

A. After they cat scanned me.

10 Q. When would that have been?

11 A. In Montpelier.

12 Q. And approximately how many hours or days 13 following this accident?

14 A. Just hours. Three, maybe four hours.

15 Q. And what do you remember them telling you 16 at that time?

17 A. I don't really recall. I just remember

18 that I know that they kept taking me back in for more 19 x-rays and more cats.

20 Q. Do you remember what seemed to be the area 21 that was causing -- area of your body that was

causing you the most pain or discomfort at that time?

23 If you can isolate it that way.

A. No, I really can't. I was just -- in

general, I was just hurting.

your injuries in March of 2003.

And if you don't have an

3 understanding, you can tell me you don't. But if you do, I need to know what you currently understand 5 about the nature and the extent of the injuries that you sustained as a result of your ski accident.

MR. RUBENSTEIN: Objection. Form.

Page 21

You can answer as best you can.

9 THE WITNESS: I'm just -- from the 10 injuries, how am I affected? Is that what you want 11 to know?

12 Q. (BY MS. LIVINGSTON) No. If you were 13 telling someone what happened --

A. I just tell them I broke bones. I'm not an 14 15 expert, so I don't know if there was anything --

16 Q. And I understand you are not an expert. Do you ever -- when people do, when they ask you, have 17 you ever -- and you say: Oh, I've got a ski accident 19

story. I broke -- do you ever give a listing of

20 bones that you broke?

A. No. I just tell them that I broke bones. 21

22 I broke 15 bones.

23 Q. How did you come to understand the number 24 was 15?

2.5 The doctor showed me all the different

6 (Pages 18 to 21)

	September		
	Page 22		Page 24
1	things that were going to get you know, he pointed	1	Q. Which collar bone was broken?
2	it out to me.	2	A. My left.
3	Q. Which doctor was that?	3	Q. Which finger was broken?
4	A. Tim Sitter.	4	A. My right pinky.
5	Q. That's your doctor here, in Sugar Land?	5	Q. Where is your understanding do you
6	A. Right.	6	have an understanding of what transverse processes
7	Q. Do you have a recollection of having	7	are?
8	discussions with the doctors in Vermont?	8	A. I do not.
9	A. No. Well, no. They were trauma doctors.	9	Q. Where did you come up with that phrase?
10	They came in, they looked, and they walked out. They	10	A. The doctor.
11	didn't say anything. They wanted me to get stable,	11	Q. Would that be Dr. Sitter?
12	is what they wanted. Do you understand what I'm	12	A. Yeah.
13	saying?	13	Q. Dr. Sitter wasn't the first doctor that you
14	Q. Let me ask the questions.	14	saw in the Houston area; correct?
1.5	A. They didn't discuss my broken bones. What	15	A. He was what now?
16	they wanted to do is make sure that I wasn't going to	16	Q. Dr. Sitter was not the first doctor that
17	rip my puncture a lung again. They wanted to	17	you saw in the Houston area about your injuries
18	stabilize me. And then I would get after-care. This	18	following your skiing accident?
19	was a trauma center. They just wanted to have me, so that I could move on to recover at that point.	19 20	A. No.
20 21	MR. RUBENSTEIN: Just try and answer	21	Q. Who was the first doctor that you saw? A. I do not know his name.
22	her question.	22	
23	Q. (BY MS. LIVINGSTON): Did you have a	23	Q. How did you come to see that physician? A. The first one?
24	discussion with them about your condition?	24	Q. Yes.
25	A. No.	25	A. I believe he was on the PTO from the
20	71. 110.	20	71. I deficte the was on the LLO from the
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	Page 23		Page 25
1	Q. Do you recall any of that?	1	insurance. So, he might have been on the list.
2	Q. Do you recall any of that? A. No.	2	insurance. So, he might have been on the list. Q. Well, would the fact that he was on the
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2 3 4 5 6	 Q. Do you recall any of that? A. No. Q. Are you really telling me that the doctors did not talk to you at all when you were there? A. My discussions with them, I don't remember. I was under pretty heavy drugs. 	2 3 4 5 6	insurance. So, he might have been on the list. Q. Well, would the fact that he was on the list, would that have been why you chose him? Or was there any other A. That would have been it. Q input into the decision?
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Oral Deposition - Douglas Kaye September 21, 2006

	Page 26		Page 28
1	A. My bone was poking through at my	1	understand that.
2	shoulder	2	THE WITNESS: If I had known, I would
3	Q. And which bone was that?	3	have brought them today. Didn't know.
4	A. My collar bone.	4	I also thought you could get them from
5	Q. Okay.	5	Fletcher Allen, too, as well.
6	A. And it would have gone through the skin.	6	Q. (BY MS. LIVINGSTON): I will tell you that
7	It would have come through the skin if I had not done	7	Fletcher Allen has signed a letter saying that they
8	something about it. It wasn't going to heal by	8	gave you the originals, and that you checked them
9	itself.	9	out
10	Q. And how had you come to that conclusion?	10	A. Yeah. I have them.
11	A. I could see the bone through the skin.	11	Q and that they have none left, to give
12	Q. What rationale did the doctor give you for	12	us.
13	saying he would not do anything at the time?	13	A. I did I did not send them back, because
14	A. I'm not sure exactly what his rationale	14	I thought just this case might come up.
15	was.	15	Q. Help me out on the timing there. You did
16	Q. Do you remember any discussions when you	16	not send
17	were in Vermont about treatment for your clavicle?	17	A. I did not send them back because I did not
19	A. No.	18	know whether they would be needed or not.
20	Q. Do you remember checking out all the x-rays from the Fletcher Allen Hospital, in Vermont?	19	Q. When did you decide to sue Synthes in
21	A. Yes, I do.	20	connection with this case, or when did you decide to
22	Q. And you did sign for those, did you not?	22	bring this case?
23	A. Either I or my wife did.	23	MR. RUBENSTEIN: Object to the extent
24	Q. What happened to those?	24	that it gets into any kind of attorney/client privilege.
25	A. They are at my house.	25	MS. LIVINGSTON: Timing's not. My
	Page 27		
,			Page 29
1 2	Q. Okay.	1	question goes to timing.
2	MS. LIVINGSTON: We've made requests	2	MR. RUBENSTEIN: I think it covers the
3	for all the x-rays in this case.	3	whole relationship. And timing has to do with
5	I'm going to request again that we get whatever x-rays he has at his house.	4	meeting with an attorney and coming to that
6	MR. RUBENSTEIN: Presurgical x-rays,	5 6	conclusion.
7	before the plate was put in?	7	I'm going to advise you not to answer
8	MS. LIVINGSTON: Uh-huh.	8	that.
9	MR. RUBENSTEIN: Okay. I thought	9	THE WITNESS: Okay. Q. (BY MS. LIVINGSTON): So we're clear, my
10	I had given you everything I had. I didn't know	10	question is: When did you, Mr. Kaye, decide to bring
11	about this until today, that there were still some	11	this lawsuit?
12	there.	12	MR. RUBENSTEIN: Are you asking for a
13	MS. LIVINGSTON: Right.	13	date kind of thing, or what led up to it?
14	MR. RUBENSTEIN: But I'll get those to	14	MS. LIVINGSTON: No. I'm asking for a
15	you.	15	date.
16	MS. LIVINGSTON: I need those. I think	16	Q. (BY MS. LIVINGSTON) "When" means "when."
17	we had also said they would be subject to our	17	A point in time. When did you decide to bring this
18	previous request. But there was also a subpoena	18	lawsuit?
19	duces tecum.	19	A. I don't remember the exact date.
20	So, if you can just get them, and	20	Q. Give me an approximation, please, sir.
21	we'll arrange for them to be copied.	21	A. It would have been after the surgery for
22	MR. RUBENSTEIN: I will. I apologize.	22	the faulty plate.
23	I wasn't intentionally trying to hide the ball or	23	Q. Which surgery would that be?
24	anything.	24	A. That would have been the third.
25	MS. LIVINGSTON: I appreciate that and	25	Q. Hadn't you, in fact, decided to engage an

8 (Pages 26 to 29)

		,	
	Page 30		Page 32
1	attorney prior to surgery for the removal of the	1	A. Scissors are an instrument. They are a
2	broken plate?	2	tool. And the tool has to be in good working order,
3	MR. RUBENSTEIN: Objection. Asks	3	to function properly.
4	about attorney/client privilege. Please do not	4	The damage that customers, either
5	answer that.	5	through customer abuse or customer error, puts chips
6	I'm instructing him not to answer	6	or, you know, imperfections, that have to be removed.
7	that, as phrased.	7	Sharpening is a removal process. So,
8	Q. (BY MS. LIVINGSTON) Have you employed an	8	we find a new layer of steel that has no damage in
9	attorney prior to the surgery the explantation	9	it, resurface it, clean, adjust, and replace any
10	surgery for the broken Synthes plate?	10	missing parts or pieces.
11	MR. RUBENSTEIN: Objection. Asks for	11	That's about it. It's honed and
12	attorney/client privilege as phrased.	1.2	polished.
13	Please do not answer that question.	13	Q. Do you when I look at scissors and
14	I'm instructing you not to.	14	they're not expensive Japanese hair cutting
15	Q. (BY MS. LIVINGSTON) Had you told anyone at	15	scissors but when I look at scissors, there's
16	the hospital that you had a lawyer on the morning for	16	usually some kind of screw or manner of holding the
17	the explantation surgery for the broken Synthes	17	two blades of the scissors together.
18	plate?	18	A. Uh-huh.
19	A. Yes.	19	Q. Do you generally remove the blades from
20	Q. Who did you tell?	20	each other, to engage in the sharpening process?
21	A. Kevin Attley.	21	A. That's done on some.
22	Q. Who is Kevin Attley?	22	Q. I don't know how else to ask it that way.
23	MR. RUBENSTEIN: I don't know what to	23	A. Right.
24 25	do here. Go ahead and answer the question, I guess.	24 25	Q. But you understand what I'm asking
23	THE WITNESS: He's an attorney.	2.0	A. Some scissors, it's done that way.
		1	
	Page 31		Page 33
1	•	1	Page 33 Q. What determines whether or not you separate
1 2	Q. (BY MS. LIVINGSTON) Did he accompany you to the hospital?	1 2	-
	Q. (BY MS. LIVINGSTON) Did he accompany you	1	Q. What determines whether or not you separate
2	Q. (BY MS. LIVINGSTON) Did he accompany you to the hospital?	2	Q. What determines whether or not you separate the halves of the scissors? Is that the model of the
2	 Q. (BY MS. LIVINGSTON) Did he accompany you to the hospital? A. He was not allowed to. Q. Did he make requests to accompany you in the surgical suite? 	2 3	Q. What determines whether or not you separate the halves of the scissors? Is that the model of the scissors? A. Right. The quality of the actual instrument.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q. (BY MS. LIVINGSTON) Did he accompany you to the hospital? A. He was not allowed to. Q. Did he make requests to accompany you in the surgical suite? A. Yes. Q. And, in fact, he wanted to videotape the surgery, did he not? A. I don't know what his intentions were. Q. Do you remember seeing him with a videotape camera? A. Ma'am, I do not. Q. Were you present when he was told that he could not go into the surgical suite? A. No, ma'am, I was not. Q. Tell me how you sharpen the scissors. A. It's different with different kinds.	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q. What determines whether or not you separate the halves of the scissors? Is that the model of the scissors? A. Right. The quality of the actual instrument. Q. Are the can you give me a rundown on whether the more expensive scissors can be more easily separated A. The more expensive the scissors, the more sophisticated all the pieces and technology is in the tool. And it's a lot easier to take those apart. High quality is always better. Q. Now, you said that the imperfections that have to be removed, you said that they happen through either customer abuse or customer error. A. Neglect. Q. On the part of the user of the scissors?
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q. (BY MS. LIVINGSTON) Did he accompany you to the hospital? A. He was not allowed to. Q. Did he make requests to accompany you in the surgical suite? A. Yes. Q. And, in fact, he wanted to videotape the surgery, did he not? A. I don't know what his intentions were. Q. Do you remember seeing him with a videotape camera? A. Ma'am, I do not. Q. Were you present when he was told that he could not go into the surgical suite? A. No, ma'am, I was not. Q. Tell me how you sharpen the scissors. A. It's different with different kinds. Q. Okay. A. The basic procedure is to remove damage. Q. And damage being an uneven edge of the blade?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q. What determines whether or not you separate the halves of the scissors? Is that the model of the scissors? A. Right. The quality of the actual instrument. Q. Are the can you give me a rundown on whether the more expensive scissors can be more easily separated A. The more expensive the scissors, the more sophisticated all the pieces and technology is in the tool. And it's a lot easier to take those apart. High quality is always better. Q. Now, you said that the imperfections that have to be removed, you said that they happen through either customer abuse or customer error. A. Neglect. Q. On the part of the user of the scissors? A. Yeah. Uh-huh. Q. Is there any other mechanism or modality for imperfections to occur?
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. (BY MS. LIVINGSTON) Did he accompany you to the hospital? A. He was not allowed to. Q. Did he make requests to accompany you in the surgical suite? A. Yes. Q. And, in fact, he wanted to videotape the surgery, did he not? A. I don't know what his intentions were. Q. Do you remember seeing him with a videotape camera? A. Ma'am, I do not. Q. Were you present when he was told that he could not go into the surgical suite? A. No, ma'am, I was not. Q. Tell me how you sharpen the scissors. A. It's different with different kinds. Q. Okay. A. The basic procedure is to remove damage. Q. And damage being an uneven edge of the blade?	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. What determines whether or not you separate the halves of the scissors? Is that the model of the scissors? A. Right. The quality of the actual instrument. Q. Are the can you give me a rundown on whether the more expensive scissors can be more easily separated A. The more expensive the scissors, the more sophisticated all the pieces and technology is in the tool. And it's a lot easier to take those apart. High quality is always better. Q. Now, you said that the imperfections that have to be removed, you said that they happen through either customer abuse or customer error. A. Neglect. Q. On the part of the user of the scissors? A. Yeah. Uh-huh. Q. Is there any other mechanism or modality for imperfections to occur? A. Manufacturer defects. Q. What about normal wear and tear?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Q. (BY MS. LIVINGSTON) Did he accompany you to the hospital? A. He was not allowed to. Q. Did he make requests to accompany you in the surgical suite? A. Yes. Q. And, in fact, he wanted to videotape the surgery, did he not? A. I don't know what his intentions were. Q. Do you remember seeing him with a videotape camera? A. Ma'am, I do not. Q. Were you present when he was told that he could not go into the surgical suite? A. No, ma'am, I was not. Q. Tell me how you sharpen the scissors. A. It's different with different kinds. Q. Okay. A. The basic procedure is to remove damage. Q. And damage being an uneven edge of the blade? A. It's that's a broad category. But that could be part of it. Q. Great. Why don't you describe it as	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23	Q. What determines whether or not you separate the halves of the scissors? Is that the model of the scissors? A. Right. The quality of the actual instrument. Q. Are the can you give me a rundown on whether the more expensive scissors can be more easily separated A. The more expensive the scissors, the more sophisticated all the pieces and technology is in the tool. And it's a lot easier to take those apart. High quality is always better. Q. Now, you said that the imperfections that have to be removed, you said that they happen through either customer abuse or customer error. A. Neglect. Q. On the part of the user of the scissors? A. Yeah. Uh-huh. Q. Is there any other mechanism or modality for imperfections to occur? A. Manufacturer defects. Q. What about normal wear and tear? A. Normal wear and tear.

9 (Pages 30 to 33)

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Oral Deposition - Douglas Kaye September 21, 2006

	Page 34		Page 36
1	A. Uh-huh.	1	adjustments to it?
2	Q. Is that a "yes"?	2	Λ. Oh, yes. They're required to.
3	A. Yes.	3	Q. And when you say, "they're required to,"
4	Q. And you understand, when you sell the	4	what do you mean? Who is making that requirement?
5	scissors, they are being sold for cutting hair?	5	A. Well, if the scissor is going to function
6	A. Yeah.	6	properly, it has to be adjusted periodically.
7	Q. We're not talking about just human hair,	7	And that's going to be done by them,
8	are we?	8	because I'm not there every day.
9	A. I have one customer that cuts dog hair, and	9	That's something that they have to do.
10	that would be our dogs.	10	They're required by the manufacturers in their little
11	Q. What kind of dogs do you have?	11	instruction thing to oil their scissors daily. They
12	A. Bichon.	12	usually don't understand that. But daily is a good
13	Q. How many do you have?	13	thing. So, they need to oil them.
14	A. Two.	14	They're supposed to be kept in a
15	Q. Did you have those in March through	15	protective case.
16	September of 2003?	16	Q. Okay.
17	A. We had yes.	17	A. They're not supposed to drop their tools.
18	Q. What are your dogs' names?	18	They're not supposed to cut things that are not good,
19	A. Keiki and Ditto.	19	clean, wet hair.
20	Q. Ditto, as in "again"?	20	They're supposed to find one sharpener
21	A. Yes.	21	that they like, and stick with him.
22	Q. What do you consider to be customer abuse	22	Q. Do you anticipate that your customers will
23	in connection with the scissors that you sell?	23	sharpen their own scissors?
24	A. It can range. I've had one client use her	24	A. Never.
25	scissors for a screw driver, and she snapped the	25	Q. Would you consider that to be abuse?
	Page 35		Page 37
1	scissors in half.	1	A. I guess. I guess that's vague.
2	Had another one of her customers,	2	Q. When you say, "find one sharpener and stick
3	different hair dresser, used her tools to cut her	3	to it," do you mean an individual such as yourself?
4	credit card in half.	4	A. Well, there's many out there to choose
5	Had another customer's child use the	5	from. But one person that would do the work. The
6	scissors to cut an electric cord in half. That's	6	reason is that everyone has a different idea of what
7	abuse.	7	sharp is. And it wears your scissor out to go from
8	Q. What makes that abuse?	8	one sharpener to the next.
9	A. It welded the scissors together. Took	9	They do one thing. Someone else does
10	the electricity, and arced copper onto the steel.	10	something else, and everyone takes off metal.
11	And the scissors were like that permanently	11	And every time you have your scissors
12	(indicating). That's abuse.	12	sharpened, serviced, whatever, you're wearing the
13	Q. Is cutting the credit card, in your	13	scissors away.
14	opinion, abuse?	14	One person with one idea of what
15	A. Excessive.	15	they're doing is better than going to five different
16	Q. Excessive abuse.	16	people. It's like your hair.
17	What kinds of instructions do you give	17	Q. Do you ever sharpen knives?
18	to your customers when you sell them the scissors?	18	A. Never.
19	A. I have several that I have come up with	19	Q. Have you ever done that before?
20	over the years by having a group of instructions that	20	A. Years ago. Not professionally. Just
21	I usually tell the people. And if they pay	21	myself. It's different.
22	attention, they do well with them. Taking good care	22	Q. Tell me about the differences. How when
23	of your scissors includes oiling them and adjusting	23	you were sharpening knives, how did you sharpen
	them.	24	those? Did you use a grindstone?
25	Q. Do you want your customers doing their own	25	A. Hand.
8/8/c G		n. (0.0420000000000000000000000000000000000	

10 (Pages 34 to 37)

Karen K. Harris, CSR, RPR, B.A., M.A. Nell McCallum & Assoc. (713) 861-0203

Page 40 Q. A whetstone? A Yeah. Q. Did you switch the blade, and go on each side, or any ou describe to me how you did that? A. There's different techniques. A. There's different techniques. Played around with it. Blake I said, nothing professional. Q. Now, describe for me the manner in which to Q. Sure, which all of the machine that your brother — A. Say that again. A. Say that again. A. Say that again. Q. Sure, Give me a description of the manner in which that your brother manufactured for you. The that you go about sharpening sissors using the machine that your brother manufactured for you. The that you go about sharpening sissors using the manner the damage. And then, am I capable of a repairing this? If it's not something that has to go abot to the remainfacturer. Page 39 Page 41 Okay — A. Uh-huh. Okay — A. Uh-huh. A. Wh-buh. Q. Okay. Say that word for me again. A set ability. It's a setting he are stable. Cartain scissors are settable, but by the manufacturer only. If they break them, that's their business. They care a stable and cartain scissors are settable. Certain scissors are not settable. They procedure for you there, if that's their business. They procedure for you. Page 41 Okay — A. Uh-huh. A. Uh-huh. A. Statability, It's a setting A curve in the blades of the manufacturer only. If they break them, that's their business. A. Cartain blades have a set ability, meaning the business. A. Cartain scissors are not settable, but by the manufacturer only. If they break them, that's their business. They procedure for you. Page 41 Okay — A. Uh-huh. A. Stay that word for me again. A set ability, It's a setting A curve in the business. A. Cartain blades have a set ability, meaning the business. A. Did tag the what? A. Including the what? Q. Dieters? A. Dieters and the hardware. I guess the machine is aluminum. Dieters and the path ward to me again. A set ability, It's a setting A curve in the business. Certain scissors are not settable, but by the manufacturer only		Dep cember		
2 removing damage and the honing part. 3 Q. Idy our switch the blank, and go on each 4 side, or can you describe to me how you did that? 5 A. There's different techniques. 6 Q. How did you do it? 7 A. Sort of one side and then the other. 9 Like I said, nothing professional. 10 Q. Now, describe for me the manner in which 11 you will use the sharpener that your brother 12 you will use the sharpener that your brother 13 A. Say that again. 14 Q. Sure. Give me a description of the manner 15 that you go about sharpening exissors using the 16 manchine that your brother manufactured for you in your jeb. 17 A. Okay. If s = -if s a procedure that I've 18 come up with over the years that I have been doing 19 this. If s a revaluation. 10 Q. Uh-huh. What else? 11 come up with over the years that I have been doing 15 that you go about sharpening exissors using the 16 machine that your brother manufactured for you. 17 A. Okay. If s = -if s a procedure that I've 18 come up with over the years that I have been doing 19 this. If s a revaluation is to 20 determine the damage. And then, am I capable of 21 repairing life's I'f if's not something that has to go 24 back to the manufacturer. 25 Q. Let me interrupt you there, if that's 2 okay - 2 A. Uh-huh. 3 Q and ask you: What determines whether or on to you feel capable to repair the damage? 4 hat you can vary the angles that the blades 4 that you can vary the angles that the blades 5 Q. Okay. Say that word for me again. A set 6 pablity. 2 A. Set ability. It's a setting. A curve in 2 the blade is called a set. And certain scissors are a not actable. 3 Certain blades have a set ability, meaning 4 that you can vary the angles that the blades 5 Uniform the population of the manufacturer only. If they break them, that's their 5 business. 10 Okay. Say that word for me again. A set 11 the blade is called a set. And certain scissors are set as a decent of the scissors are set ast		Page 38		Page 40
3 Q. Did you switch the blade, and go or each side, or can you describe to me how you did that? 5 A. There's different techniques. 6 Q. How did you do it? 7 A. Sort of one side and then the other. 8 Played around with it. 10 Q. Now, describe for me the manner in which you will use the sharpener that your brother which you will use the sharpener that your brother that you sharpening scissors using the manufactured for you in your jeb. 10 Sune. Give me a description of the manner that you brother manufactured for you. 11 A. Okay. If is a procedure that I've commendation of your feel capable of expairing this? If it is not something that has to go 2d beack to the manufacturer. 12 determine the damage. And then, am I capable of repairing this? If it is not something that has to go 2d beack to the manufacturer. 12 okay 13 okay 14 okay 15 okay 16 okay 17 A. Okay. Say that word for me again. A set ability. 18 okay 19 okay 20 Q. Uh-hub. What determines whether or or your feel capable to repair the damage? 21 A. Uh-hub. 22 Okay. Say that word for me again. A set ability. 23 Okay. Say that word for me again. A set ability. 24 or -no, 18 inches long, 9 inches high, and about 11 inches deep. If weighs about 24 pounds. 25 Okay. The wighs about 24 pounds. 26 Okay. The wighs about 24 pounds. 27 Okay. The wighs about 22 inches long. 28 Inchesting a manufacturer of the manufacturer. 29 Okay. The wighs about 24 pounds. 20 Okay. Say that word for souther and the clamping head. 21 A. Did land the about 2 inches long. 22 Incheding the what? 23 Okay			ł	
4 side, or can you describe to me how you did that? 5 A. There's different techniques. 6 Q. How did you do it? 7 A. Sort of one side and then the other. 8 Played around with it. 9 Like I said, nothing professional. 10 Q. Now, describe for me the manner in which 11 you will use the sharpener that your brother 11 you will use the sharpener that your brother 12 manufactured for you in your jeb. 13 A. Say that again. 14 Q. Sure. Give me a description of the manner 15 that you go about sharpening seissors using the 16 machine that your brother manufactured for you. 17 A. Okay. If s a - if s a procedure that I've 18 come up with over the years that I have been doing 19 this. If s an evaluation. 20 Q. Uh-huh. What else? 21 A. Determining - the evaluation is to 22 determine the damage. And then, am I capable of a repairing this? If if is not something that has to go 24 back to the manufacturer. 25 Q. Let me interrupt you there, if that's 26 A. Uh-huh. 3 Q and ask you: What determines whether or not you feel capable to repair the damage? 4 A. Uh-huh. 4 Q. Sure are a set ability, meaning 5 that you can vary the angles that the blades 4 attach - attack one another. 5 A. Right. 6 Q. — has manufactured for you. 6 Q. Where are the moving parts? 10 Q. Where are the moving parts? 11 It has a naticulating and that it is adjustable. It has an articulating arm that is adjustable. It has an articulating arm that is adjustable. It has five moving horizontal discs, 17 piakes. 18 quite determine the damage. And then, am I capable of repair the damage. 29 Q. Let me interrupt you there, if that's 20 Q. The entire machine is out of aluminum. 20 Q. The entire machine is out of aluminum. 21 A. Except for the motor and the clamping head. 22 Everything lese is and the hardware. I guess 23 there are some serves that are staining. 21 A. Determining the valuation. 22 Q. Right. 23 A. Oh, no. The racisors? That's something different. The machine? 24 A. No. I's alminimum. 25 Q. Right. 26 A. No. I's alminimum. 27 Q. Aren't blades on the m		·		
5 A. Ther's different techniques. 6 Q. How did you do di? 7 A. Sort of one side and then the other. 8 Played arround with it. 10 Q. Now, describe for me the manner in which you will use the sharpener that your brother manufactured for you in your jeb. 13 A. Say that again. 14 Q. Sure. Give me a description of the manner in the that you go about sharpening seissors using the minchine that your brother manufactured for you. 17 A. Okay. If s a – if s a procedure that I've minchine that your brother manufactured for you. 18 come up with over the years that I have been doing the state of the manufacture. 19 Q. U-huhh. What else? 21 A. Determining – the evaluation is to 22 determine the damage. And then, am I capable of repair the the damage. And then, am I capable of polyou feel capable to repair the damage? 24 basek to the manufacturer. 25 Q. Let me interrupt you there, if that's 26 A. U-huhh. 27 Q. —and ask you: What determines whether or not you feel capable to repair the damage? 28 A. U-huhh. 29 Q. —and ask you: What determines whether or not you feel capable to repair the damage? 29 A. Ctrain blades have a set ability, meaning that the blade is called a set. And certain scissors are not settable. 29 Q. Okay. Say that word for me again. A set ability. It's a setting. A curve in the blade is called a set. And certain scissors are settable, but by the manufacturer only. If they break them, that's their blade is called a set. And certain scissors are settable, but by the manufacturer only. If they break them, that's their blade is called a set. And certain scissors are settable. Certain scissors are settable, but by the manufacturer only. If they break them, that's their blade is called a set. And certain scissors are settable. Certain scissors are not settable. 20 Cokay. Say that word for me again. A set ability. It's a setting. A curve in the blade is called a set. And certain scissors are not settable. 21 Core and the set and the application of the manufacturer only. If they break them, that's their blade is cal			1	
6 Q. How did you do it? 7 A. Sort of one side and then the other. 8 Played around with ir. 9 Like I said, nothing professional. 10 Q. Now, describe for me the manner in which 11 you will use the sharpener that your brother 12 manufactured for you in your job. 13 A. Say that again. 14 Q. Sure. Give me a description of the manner 15 that you go about sharpening scissors using the 16 machine that your brother manufactured for you. 17 A. Okay. It's a – 'if's a procedure that I vec 18 come up with over the years that I have been doing 19 this. It's an evaluation. 20 Q. Uh-huh. What else? 21 A. Determining – the evaluation is to 22 determine the damage. And then, am I capable of epairing this? If it's not something that has to go a back to the manufacturer. 21 Q. Let me interrupt you there, if that's 22 determine the damage. And then, am I capable of ronty ou feel capable to repair the damage? 23 repairing this? If it's not something that has to go a back to the manufacturer. 24 the manufacturer 25 Q. Let me interrupt you there, if that's 26 A. Uh-huh. 27 okay.— 28 A. Uh-huh. 29 Okay. Say that word for me again. A set ability, meaning that you can vary the angles that the blades attach—attack one another. 29 A. Say that age is called a set. And certain scissors are attack one another. 20 Q. Okay. Say that word for me again. A set ability. 20 A. Set ability. It's a setting. A curve in the blade is called a set. And certain scissors are attack one another. 20 Cartain scissors are not settable. 21 Certain scissors are settable, but by the manufacturer only. If they break them, that's their the blades is called a set. And certain scissors are settable, but by the manufacturer only. If they break them, that's their the blades on the machine is a subminum. 30 Q. Fraction that is an articulating arm that is a direct division. 31 A. Except for the motor and the clamping head. 32 Everything is billet aluminum. 33 Q. Including the what? 34 Q. Including the what? 35 Q. Including the blades? 36 Q. No, no. The scissors? That's so			į	
7 A. Sort of one side and then the other. 8 Played around with it. 9 Like I said, nothing professional. 10 Q. Now, describe for me the manner in which you will use the sharpener that your brother annufactured for you in your job. 13 A. Say that again. 14 Q. Sure. Give me a description of the manner that your brother mamfactured for you. I hat you go about sharpening scissors using the machine that your brother mamfactured for you. 17 A. Okay. It's a — it's a procedure that I've machine that your brother mamfactured for you. 18 come up with over the years that I have been doing this. It's an evaluation. 19 this. It's an evaluation. 20 Q. Uh-huh. What else? 21 A. Determining — the evaluation is to 2determine the damage. And then, am I capable of repairing this? If it's not something that has to go 4 back to the manufacturer. 21 okay — 22 A. Uh-huh. 3 Q. — and ask you: What determines whether or not you feel capable to repair the damage? 3 A. Uh-huh. 4 Okay. Say that word for me again. A set ability. 5 A. Certain blades have a set ability, meaning that you can vary the angles that the blades ability. 5 Q. Okay. Say that word for me again. A set ability. 5 Q. Okay. Say that word for me again. A set ability. 5 Q. Okay. Say that word for me again. A set ability. 6 I hook at it. If I say, through my recyreince, if I do this, and it breaks, I'd own it, and I have been doing the company. So, that's my evaluation. 2 The procedure for sharpening then is corneve damage on each blade, and then hone them, and and the company. So, that's my evaluation. 2 The procedure for sharpening them back together. 3 and then put them back together. 4 The hones — which all of these are — 25 but then there are more hones are made out of felt.			i .	
8 Played around with it. 9			1	
Like I said, nothing professional. Q. Now, describe for me the manner in which you will use the sharpener that your brother manufactured for you in your jeb. A. Asy that again. A. Okay. It's a — it's a procedure that I've that you go about sharpening scissors using the machine that your brother manufactured for you. A. Okay. It's a — it's a procedure that I've company with over the years that I have been doing this. It's an evaluation. Q. Uh-huh. What else? A. Determining — the evaluation is to company so the manufacturer. A. Determining — the evaluation is to company so the manufacturer. Page 39 Page 41 Okay — A. Uh-huh. A. Uh-huh. A. Uh-huh. A. Cuh-huh. A. Cutain blades have a set ability, meaning that you can wary the angles that the blades are attach — attack one another. Q. Okay. Say that word for me again. A set ability. A. Cutain blades have a set ability, meaning that you can wary the angles that the blades are astable, but by the ability. A. Cutain blades have a set ability. Meaning that you can wary the angles that the blades are astable. B. Q. Okay. Say that word for me again. A set ability set astable. Certain scissors are entsetable. B. Cutain blades have a set ability. Meaning that you can wary the angles that be blades are astable, but by the manufacturer only. If they break them, that's their business. B. Ookay. Say that word for me again. A set ability meaning that you can wary the angles that be blades are astable. B. Cutain blades have a set thing were astable. Certain scissors are entsetable. Certain scissors are setable. Q. Okay. Say that word word processed that the sea of the			1	
10 Q. Now, describe for me the manner in which 11 you will use the sharpener that your brother 12 manufactured for you in your job. 13 A. Say that again. 14 Q. Sure. Give me a description of the manner 15 that you go about sharpening exiscors using the 15 machine that your brother manufactured for you. 16 machine that your brother manufactured for you. 17 A. Okay. It's ait's a procedure that I've 18 come up with over the years that I have been doing 19 this. It's an evaluation. 10 Q. Uh-huh. What else? 10 A. Determining the evaluation is to 11 okay 12 A. Ub-huh. 12 okay 13 okay 14 okay 25 A. Uh-huh. 15 okay. 16 A. Uh-huh. 16 okay 17 attach attack one another. 17 Q. Joay. Say that word for me again. A set attach attack one another. 18 Q. Okay. Say that word for me again. A set of the blade is called a set. And certain scissors are strable. 19 okay. 20 Q. Which are made of what material? 21 A. It's a unit that is about 22 inches long, 22 or no, 18 inches long, 9 inches high, and about 11 inches deep. It weighs about 24 pounds. 24 It is a horizontal discs, 25 It is a horizontal discs, 26 It weighs about 24 pounds. 26 It is a horizontal nor. 27 plates. 28 Q. Which are made of what material? 29 Q. Which are made of what material? 20 Q. Which are made of what material? 20 Q. Which are machine is out of aluminum? 21 A. Except for the motor and the elamping head. 22 Everything else is and the hardware. I guess there are some screws that are stainless steel. But the majority of the machine is aluminum. 24 D. Except for the motor and the elamping head. 25 Everything else is and the hardware. I guess there are some screws that are stainless steel. But the majority of the machine is aluminum. 26 D. A. Including the what? 27 Q. Including the blades? 28 D. Including the what? 29 Q. Plates? 29 D. Plates. 29 D. Plates. 20 Q. Right. 20 Q. Right. 21 A. It's aluminum. 22 Q. Ararit blades on the machine			1	<u> </u>
11 you will use the sharpener that your brother 22 manufactured for you in your jeb. 3 A. Say that again. 4 Q. Sure. Give me a description of the manner 5 that you go about sharpening scissors using the 6 machine that your brother manufactured for you. 17 A. Okay. It's a – it's a procedure that I've 18 come up with over the years that I have been doing 19 this. It's an evaluation. 2 Q. U-huhb. What else? 21 A. Determining – the evaluation is to 2 determine the damage. And then, am I capable of repairing this? If it's not something that has to go 2 abock to the manufacturer. 2 A. Uh-huh. 2 O, Let me interrupt you there, if that's Page 39 Page 41 Okay.— A. Uh-huh. Okay.— A. Uh-huh. A. Uh-huh. Okay.— A. Uh-huh. A. Set ability. It's a setting. A curve in 11 the blade is called a set. And certain scissors are of settable. 2 Cottain blade have a set ability, meaning that you can vary the angles that the blades 3 different. The machine? 4 not you feel capable to repair the damage? 5 Q. Okay. Say that word for me again. A set ability. 6 Took at it. If I say, through my 7 experience, if I do this, and it breaks, I'd own it, and I the blade, and then hone them, and the carry of the manufacturer only. If they break them, that's their 5 business. 1 I look at it. If I say, through my 7 experience, if I do this, and it breaks, I'd own it, and I they and the machine is a lound that a set and the article in the company. So, that's my evaluation. 1 The procedure for sharpening then is 2 to remove damage on each blade, and then hone them, and and thor want to. 2 to remove damage on each blade, and then hone them, and and thor want to. 3 and then put them back logether. 4 not remove damage on each blade, and then hone them, and and the put them back logether. 1 to r—no, 18 inches deep. It weighs about 24 pounds. 1 tis a horizontal hone. It is 1 tis a horizontal hone. It is 1 the say divided the say in that is a dijustable. It has five moving horizontal discs, plates. 2 Q. Which are made of what material? 3 A. Except for the			i	
12 manufactured for you in your jeb. 13 A. Say that again. 14 Q. Sure. Give me a description of the manner that your brother manufactured for you. 15 that you go about sharpening scissors using the machine that your brother manufactured for you. 16 A. Okay. It's a it's a procedure that I've come up with over the years that I have been doing 19 this. It's an evaluation. 17 A. Okay. It's a it's a procedure that I've come up with over the years that I have been doing 19 this. It's an evaluation. 18 Q. Uh-huh, What else? 19 A. Determining the evaluation is to 22 determine the damage. And then, am I capable of 23 repairing this? If it's not something that has to go 24 back to the manufacturer. 25 Q. Let me interrupt you there, if that's 26 A. Uh-huh. 27 A. Uh-huh. 28 Q. — and ask you: What determines whether or not you feel capable to repair the damage? 29 A. Certain blades have a set ability, meaning 6 that you can vary the angles that the blades at attach — attack one another. 29 A. Set ability. It's a setting. A curve in 11 the blade is called a set. And certain scissors are attack one another. 20 Q. Okay. Say that word for me again. A set ability. It's a setting. A curve in 11 the blade is called a set. And certain scissors are settable. Certain scissors are not settable. 30 Q. Okay. Say that word for me again. A set ability. It's a setting. A curve in 11 the blade is called a set. And certain scissors are settable. Set a settable. Certain scissors are not settable. 31 Q. Okay. Say that word for me again. A set ability. It's a setting A curve in 11 the blade is called a set. And certain scissors are settable. Set a settable. Certain scissors are not settable. Set a settable. Set a settable of the procedure for sharpening then is 2 to remove damage on each blade, and then hone them, 2 and then put them back together. 31 Q. Okay. Say that word for me again. A set ability. Meanure in some particular way? 32 Q. Including the what? 33 Q. Price and the charchine is aluminum. Set and the majority of the machin			1	
13 A. Say that again. 14 Q. Sure. Give me a description of the manner 15 that you go about sharpening scissors using the 16 machine that your brother manufactured for you. 17 A. Okay. It's a it's a procedure that I've 18 come up with over the years that I have been doing 19 this. It's an evaluation. 20 Q. Uh-huh. What else? 21 A. Determining the evaluation is to 22 determine the damage. And then, am I capable of 23 repairing this? If it's not something that has to go 24 back to the manufacturer. 25 Q. Let me interrupt you there, if that's Page 39 1 okay 2 A. Uh-huh. 2 Q and ask you: What determines whether or 2 not you feel capable to repair the damage? 3 A. Certain blades have a set ability, meaning 4 that you can vary the angles that the blades 3 attach attack one another. 4 Q. Okay. Say that word for me again. A set 3 ability. 3 Certain scissors are not settable. 4 C. Okay. Say that word for me again. A set 3 ability. 4 Set ability. It's a setting. A curve in 5 I the blade is called a set. And certain scissors are 5 settable. Certain scissors are not settable. 5 Certain scissors are not settable. 6 I look at it. If I say, through my 6 experience, if I do this, and it breaks, I'd own it, 6 and its fix thas five moving horizontal dises. 7 plates. 7 A. Except for the motor and the clamping head. 7 A. Except for the motor and the clamping head. 7 A. Except for the motor and the clamping head. 7 Everything else is and the hardware. I guess 8 Everything he blades? 8 A. Oh, no. The scissors? 9 A. Oh, no. The scissors? That's something 9 Gifferent. The machine? 9 Q. Right. 9 A. No. There are no blades. Plates. 9 Q. Plates? 10 A. No. There are no blades. Plates. 11 the blade is called a set. And certain scissors are setable. 12 Q. And what are the plates made out of? 13 A. Aluminum. 14 Q. Okay. Is it extured in some particular way? 15 A. No. It's annotized. The aluminum has been anotized, if that means anything. 16 A. No. There are no blades. It			i	
14 Q. Sure. Give me a description of the manner 15 that you go about sharpening seissors using the 16 machine that your brother manufactured for you. 17 A. Okay. If's a if's a procedure that I've 18 come up with over the years that I have been doing 19 this. It's an evaluation. 20 Q. Uh-huh. What else? 21 A. Determining the evaluation is to 22 determine the damage. And then, am I capable of 23 repairing this? If it's not something that has to go 24 back to the manufacturer. 25 Q. Let me interrupt you there, if that's 26 A. Uh-huh. 27 A. Uh-huh. 28 Q and ask you: What determines whether or 29 not you feel capable to repair the damage? 30 A. Certain blades have a set ability, meaning 41 this a horizontal hone. It is 42 adjustable. It has five moving horizontal discs, 43 algustable. It has five moving horizontal discs, 44 Everything is billet aluminum. 45 Everything is billet aluminum. 40 The entire machine is out of aluminum? 41 the machine is out of aluminum? 42 the majority of the mane active is aluminum. 42 the majority of the mane active is aluminum. 45 Q and ask you: What determines whether or 4 not you feel capable to repair the damage? 4 A. Certain blades have a set ability, meaning 4 that you can vary the angles that the blades 4 attach—a tatack one another. 5 Q. Okay. Say that word for me again. A set 6 different. The machine? 6 Q. Okay. Say that word for me again. A set 8 A. No. There are no blades. Plates. 9 ability. 10 A. Including the what? 11 Q. Right. 12 Q. Right. 13 A. Including the what? 14 A. Including the what? 15 Q. Right. 16 A. Including the what? 16 A. Including the what? 17 Q. Right. 18 Q. Which are made of what material? 19 A. Everything is billet aluminum. 19 A. Everything is be is and the hardware. I guess 10 the rameachine is out of aluminum. 11 A. Including the what? 12 Q. Including the what? 13 A. Including the what? 14 Q. Including the what? 15 Q. Right. 16 A. Including the what? 16 A. Including the what? 17 Q. Aerent blades on the machine is out of aluminum. 18 A. N			i .	
15 that you go about sharpening scissors using the machine that your brother manufactured for you. 17 A. Okay. It's a - it's a procedure that I've one up with over the years that I have been doing this. It's an evaluation. 20 Q. Uh-luh. What else? 21 A. Determining the evaluation is to determine the damage. And then, am I capable of repairing this? If it's not something that has to go back to the manufacturer. 21 A. Uh-luh. 22 Let me interrupt you there, if that's 23 repairing this? If it's not something that has to go back to the manufacturer. 24 the majority of the machine is out of aluminum? 25 Q. Let me interrupt you there, if that's 26 Let me interrupt you there, if that's 27 Q. Let me interrupt you there, if that's 38 Q. — and ask you: What determines whether or not you feel capable to repair the damage? 4 A. Uh-huh. 4 Okay.— 5 A. Certain blades have a set ability, meaning that you can vary the angles that the blades attach - attack one another. 4 Q. Okay. Say that word for me again. A set ability. 4 A. Set ability. It's a setting. A curve in the blade is called a set. And certain scissors are settable. 5 Certain scissors are settable, but by the manufacturer only. If they break them, that's their business. 6 I look at it. If I say, through my experience, if I do this, and it breaks, I'd own it, and I don't want to. 6 So, I'd say: No, that has to go back to the company. So, that's my evaluation. 7 The procedure for sharpening then is to to the company. So, that's my evaluation. 7 The procedure for sharpening then is to to the company. So, that's my evaluation. 8 The procedure for sharpening then is to to the company. So, that's my evaluation. 9 So, I'd say: No, that has to go back to the company. So, that's my evaluation. 9 The procedure for sharpening then is to the company. So, that's my evaluation. 9 The procedure for sharpening then is to the notion and the clamping head. 16 A. Including the blades? 17 A. Did I say the word wrong? Plates, and if the put was a summinum. 18 A. Including the what? 19		A. Say that again.	5	
machine that your brother manufactured for you. A. Okay, 1's a — it's a procedure that I've page 41 okay — A. Uh-huh. A.			1	3
17 A. Okay, It's a —if's a procedure that I've 18 come up with over the years that I have been doing 19 this. It's an evaluation. 20 Q. Uh-huh. What else? 21 A. Determining — the evaluation is to 22 determine the damage. And then, am I capable of 23 repairing this? If it's not something that has to go 24 back to the manufacturer. 25 Q. Let me interrupt you there, if that's Page 39 Page 41 1 okay — 2 A. Uh-huh. 3 Q. — and ask you: What determines whether or 4 not you feel capable to repair the damage? 4 A. Certain blades have a set ability, meaning that has to manufacturer only used a set as the blades at the blades ability. It's a setting. A curve in the blade is called a set. And certain scissors are settable. Certain scissors are not settable. 2 So, If say: No, that has to go back to the company. So, that's my evaluation. 2 The procedure for sharpening then is to come up with one with the plade set. 3 and then put them back together. 1 The hones — which all of these are — 1 plades. 4 A. Everything is billet aluminum. 2 Q. The entire machine is out of aluminum. 2 Q. The entire machine is out of aluminum. 2 Q. The entire machine is out of aluminum. 2 A. Everything else is — and the hardware. I guess there are some screws that are stainless steel. But 4 the majority of the motion and the clamping head. 2 Everything else is — and the hardware. I guess there are some screws that are stainless steel. But 4 the majority of the methine is out of aluminum. 2 D. Including the blades? 1 A. Including the what? 2 Q. Including the blades? 2 Q. Including the blades? 3 A. Oh, no. The machine : 4 different. The machine? 5 Q. Right. 6 A. It's aluminum. 9 Q. Aren't blades on the machine — 9 Q. Plates? 10 A. Did I say the word wrong? Plates. 11 P-L-A-T-E-S. 12 Q. And what are the plates made out of? 12 A. Including the what? 13 A. Including the what? 14 A. Including the what? 15 Q. Right. 6 A. Is' aluminum. 16 A. No. There are no blades. Plates. 9 Q. Plates? 17 Q. Aren't blades on the machine — 18 A. No.			}	
18 come up with over the years that I have been doing 19 this. It's an evaluation. 20 Q. Uh-huh. What else? 21 A. Determining – the evaluation is to 22 determine the damage. And then, am I capable of 23 repairing this? If it's not something that has to go 24 back to the manufacturer. 25 Q. Let me interrupt you there, if that's Page 39 Page 41 Okay – A. Uh-huh. Q. — and ask you: What determines whether or An toy ou feel capable to repair the damage? A. Certain blades have a set ability, meaning that you can vary the angles that the blades attach – attack one another. Q. Okay. Say that word for me again. A set ability. A. Secept for the motor and the clamping head. Everything else is – and the hardware. I guess Everything else is – and the hardware. I guess Everything else is – and the hardware. I guess 23 there are some screws that are stainless steel. But 4 the majority of the machine is aluminum. 2 Q. Including the blades? A. Oh, no. The scissors? That's something 4 different. The machine? 5 Q. Right. 6 A. It's aluminum. 7 Q. Aren't blades on the machine – 8 A. No. There are no blades. Plates. 9 ability. 9 Q. Plates? 10 A. Including the what? 2 Q. Including the what? 2 Q. Including the what? 2 Q. Right. 10 A. Including the what? 2 Q. Right. 11 A. Including the what? 2 Q. Including the blades? A. Oh, no. The scissors? That's something 4 different. The machine? 5 Q. Right. 10 A. Including the what? 2 Q. Plates? 11 A. Including the what? 2 Q. Including the what? 2 Q. Including the blades? A. Oh, no. The scissors? That's something 4 different. The machine? 5 Q. Right. 10 A. Including the what? 2 Q. Right. 11 A. Including the what? 2 Q. Plates? 12 Q. Right. 13 A. Oh, no. The scissors? That's something 4 different. The machine? 5 Q. Plates? 14 A. Including the what? 2 Q. Plates? 15 Q. Right. 16 A. It's aluminum. 17 Q. Aren't blades on the machine – 18 A. No. There are no blades. Plates. 19 A. Oh'd Is an under the plates made out of? 10 A. Aluminum. 10 A. Including the what? 2 Q. Right.			l	
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20 Q. Uh-huh. What else? A. Determining the evaluation is to 21 determine the damage. And then, am I capable of 22 repairing this? If it's not something that has to go 23 repairing this? If it's not something that has to go 24 back to the manufacturer. 25 Q. Let me interrupt you there, if that's Page 39 Page 41 1 okay 2 A. Uh-huh. 2 Q and ask you: What determines whether or 4 not you feel capable to repair the damage? 5 A. Certain blades have a set ability, meaning 6 that you can vary the angles that the blades 7 attach attack one another. Q. Okay. Say that word for me again. A set a bility. A. Set ability. It's a setting. A curve in 11 the blade is called a set. And certain scissors are 2 settable. Certain scissors are not settable. 2 settable. Certain scissors are not settable. 3 Q. Plates; 1 Q. Including the what? 2 Q. Including the blades? 4 A. Oh, no. The scissors? That's something 4 different. The machine? 5 Q. Right. 6 A. It's aluminum. 9 Q. Aren't blades on the machine 9 Q. Plates; 10 A. Set ability. It's a setting. A curve in 11 the blade is called a set. And certain scissors are 12 settable. Certain scissors are not settable. 13 Certain scissors are settable, but by the 14 manufacturer only. If they break them, that's their 15 business. 16 I look at it. If I say, through my 17 experience, if I do this, and it breaks, I'd own it, 18 and I don't want to. 19 So, I'd say: No, that has to go back 10 to the company. So, that's my evaluation. 21 The procedure for sharpening then is 22 to remove damage on each blade, and then hone them, 23 and then put them back together. 24 the majority of the machine is aluminum. 25 Everything else is and the hardware. I guess 24 there are some screws that are stainless steel. But 25 the majority of the machine is aluminum. 26 R. Including the what? 27 Q. Including the what? 28 Q. Including the what? 29 Q. Including the blades? 30 A. Oh, no. The scissors? That's something 31 different. The machine? 32 A. No. There are no blades and the hardware. I gue			3	
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repairing this? If it's not something that has to go back to the manufacturer. Q. Let me interrupt you there, if that's Page 39 Page 41 A. Uh-huh. Q. — and ask you: What determines whether or not you feel capable to repair the damage? A. Certain blades have a set ability, meaning that have a set ability, meaning attach — attack one another. Q. Okay. Say that word for me again. A set ability. It's a setting. A curve in the blade is called a set. And certain scissors are settable. Certain scissors are not settable. The blade is called a set. And certain scissors are settable, but by the manufacturer only. If they break them, that's their business. I look at it. If I say, through my experience, if I do this, and it breaks, I'd own it, and I don't want to. The procedure for sharpening then is to repair the damage on each blade, and then hone them, and then put them back together. Page 39 Page 39 A. Including the blades? A. Including the what? Q. Including the what? A. Including the what? A. Including the what? A. Including the blades? A. Including the what? A. Including the what? A. Including the blades? A. Including the what? A. Including the what? A. Including the blades? A. Including the what? A. Including the blades? A. Oh, no. The scissors? That's something different. The machine? A. It's aluminum. A. No. There are no blades. Plates. A. No. There are no blades. A. A lis's aluminum. A. No. There are no blades? A. Oh, no. The scissors? That's something different. The machine? A. It's aluminum. A. No. There are no blades. A. No. There are no blades? A. Oh, no. The scissors? That's something different. The machine? A. It's aluminum. A. No. There are no blades. Plates. A. No. There are no blades. A. No. It's annodized. The aluminum has been anotized, if that means anything. The actual abrasives are referred to anotized, if that means anything. The actual abrasives are referred t			1	
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23 and then put them back together. 23 but then there are more hones are made out of felt.				95
				1"
We are not going to get any more than \text{24} And you apply diamond powder to it or diamond slurry.				
25 that. Basically, I put them back together. 25 I guess. I don't know what it's called. It's a	∠5	tnat. Basically, I put them back together.	25	1 guess. 1 don't know what it's called. It's a

11 (Pages 38 to 41)

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September 21, 2006

	Page 42		Page 44
1	paste.	1	A. I think that the newspaper industry has
2	Do you want me to keep going?	2	gone through dramatic changes in the years since I
3	Q. Who is your supplier for the diamond	3	was there.
4	powder?	4	Back in those days, they were just
5	A. I get this from my brother.	5	getting into the photo printing, offsetting. And
6	Q. So, your brother supplies all of the	6	when we were doing it, we were doing, like the lead
7	equipment that you need?	7	type stuff, with the machines and all that.
8	A. For me, he does. Yeah.	8	It's just I don't know. I'm not in
9	Q. What's your education background?	9	it anymore. It's been years since I was. But I
10	A. I went to high school. And I went to a	10	think things have changed dramatically. A lot of
11	year of business college. And then I went to a year	11	things have. I'm sure that has, too.
12	of college for graphic arts, printing.	12	Q. Did you through your one year of graphic
13	MR. RUBENSTEIN: If you get to a place	13	arts, were you able to complete a course of study
14	to take a short bathroom break	14	during that time?
15	MS. LIVINGSTON: Sure. If you want to	15	A. No. I didn't. I wasn't financially able
16	take a break now, that's fine.	16	to afford to pay for everything myself. I went to
17	MR. RUBENSTEIN: Thanks.	17	school for the amount of money that I had, and that
18	(Recess taken)	18	was that.
19	Q. (BY MS. LIVINGSTON) You were telling me	19	Q. What did that allow you to accomplish,
20	before our break you were telling me about you had	20	following that?
21	spent a year in graphic design in college, studying	21	A. What did I use that for?
22	graphic design?	22	Q. Yes.
23	Å. Right.	23	A. I paid back my loan in printing. And then
24	Q. Now, did you do that I'm trying to get a	24	I decided that to work for yourself is better than to
25	sense for the chronological progression of that. Did	25	work for someone else.
	Page 43		D 45
		1	Page 45
1		1	And I never thought I would own a
1 2	that happen in the if there is such a thing as	1 2	And I never thought I would own a
2	that happen in the if there is such a thing as a normal time for higher education, did that follow	2	And I never thought I would own a printing plant, so I decided I was going to work for
2	that happen in the if there is such a thing as a normal time for higher education, did that follow shortly after your high school completion?	2 3	And I never thought I would own a printing plant, so I decided I was going to work for myself.
2 3 4	that happen in the if there is such a thing as a normal time for higher education, did that follow shortly after your high school completion? A. I went to college in New Hampshire for	2 3 4	And I never thought I would own a printing plant, so I decided I was going to work for myself. Q. And that's what led you to go into graphic
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2 3 4 5 6	that happen in the if there is such a thing as a normal time for higher education, did that follow shortly after your high school completion? A. I went to college in New Hampshire for business the following year. I graduated in '70, so I was in college in '71, in New Hampshire. And then I worked for three years,	2 3 4 5 6 7	And I never thought I would own a printing plant, so I decided I was going to work for myself. Q. And that's what led you to go into graphic arts? A. No. No. That got me out of graphic arts. Q. What did you start doing following your
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